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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,455	10/21/2005	Michele Rubertelli	40306/GM/p	4066
7590 Modiano & Associati Via Meravigli 16 20123 Milano Italy, ITALY				
			EXAMINER	
			LIPMAN, JACOB	
			ART UNIT	PAPER NUMBER
			2134	
			MAIL DATE	DELIVERY MODE
			03/13/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/533,455

Applicant(s)

RUBERTELLI ET AL.

Examiner

JACOB LIPMAN

Art Unit

2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 46-70 is/are pending in the application.
- 4a) Of the above claim(s) 46-50 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 51-70 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 51-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holowko et al., USPN 6,039,251 in view of Chaco, USPN 5,291,399.

With regard to claims 51, 55, 64, and 70, Holowko discloses a positive identification device (secure remote control system 10, column 4 lines 53-56) particularly for establishing correctly a correlation between a hospital product to be correlated (column 5 lines 26-35) to a patient (column 3 lines 5-8) including a first memory means, which can be affixed to the product (column 8 line 63-column 9 line 8) and storing a predefined unique identification code for the hospital product (column 9 lines 1-8), a second memory (smartcard) means, which can be affixed respectively to the patient that is correlated to the hospital product (column 6 lines 2-28) and means for remote transfer of data, adapted to download by remote transmission the content of the first memory means into the second memory means (column 6 lines 37-40 and 59-67, column 9 lines 3-8). While Holowko does disclose transferring the number from the device to the smartcard, he does not specifically disclose using RF. Holowko does disclose that the smartcard can be any portable memory, logic device, or control media that can be carried by a person (column 6 lines 9-15). Chaco discloses an RF badge

worn by hospital patients (column 17 lines 24-33) are well known and useful for transmitting and receiving information from various places in a hospital (column 16 lines 17-24). It would have been obvious for one of ordinary skill in the art to use the RF card of Chaco for the portable memory, logic device, or control media that can be carried by a person of Holowko for the motivation of using already existing cards and ease of data transfer.

With regard to claims 52 and 53, Holowko discloses the first memory stores additional data correlating to the patient (column 11 lines 2-7, column 6 lines 16-23).

With regard to claims 54 and 56, Holowko discloses comparing the data of the two memories to make sure they match (column 9 lines 54-64).

With regard to claims 57-59 and 61, Holowko discloses the device according to claim 51, as outlined above, but does not mention the provider computer having a keyboard or printer. The examiner took official notice that it is well known in the art that to include a keyboard and printer in a computer in the prior office action. Since applicant did not traverse the official notice it is taken as admitted prior art. It would have been obvious for one of ordinary skill in the art to include a keyboard and printer in the provider computer of Holowko for the motivation of making editing and record keeping (column 10 lines 53-55) more efficient.

With regard to claim 60, Holowko discloses a display for displaying a result of the contents of the memories (column 9 lines 62-67).

With regard to claim 62, Holowko discloses the device according to claim 26, as outlined above, but does not mention encryption. The examiner took official notice that it

is well known in the art to encrypt identification data that is verified in the prior office action. Since applicant did not traverse the official notice it is taken as admitted prior art. It would have been obvious for one of ordinary skill in the art to encrypt and decrypt the identification numbers of Holowko to prevent unauthorized use of the pump, a stated motivation of Holowko (column 7 lines 7-10).

With regard to claim 63, Chaco discloses the patient id can be a bracelet (column 8 line 66-column 9 line 8).

With regard to claims 66 and 68, Holowko discloses the device of claim 42, as outlined above, but does not mention that the transponder is affixed to a label. Holowko does disclose that the id number is on the pump (column 8 line 63-column 9 line 2), and that the transponder is RF (column 5 lines 50-56), but does not mention that the ID is an RF transponder on the pump's product label. The examiner took official notice that it is well known in the art to put RF antennas on product labels to broadcast their ID number in the prior office action. Since applicant did not traverse the official notice it is taken as admitted prior art. It would have been obvious for Holowko to put the ID number of the pump in an RF transmitter on the pump label for the motivation of having one item (the label) identify the device both to the patient and to the RF receiver.

With regard to claims 65 and 67, Holowko discloses the transponder is affixed to a container (pump, column 4 lines 31-34).

With regard to claim 69, Chaco discloses a removable memory from the RF transmitter, as outlined above, but does not mention it being flash memory. The examiner takes official notice that it is well known in the art to use flash memories a

removable memory. It would have been obvious for one of ordinary skill in the art to use flash memory as the removable memory of Chaco to allow for small and compact removable memory.

Conclusion

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **JACOB LIPMAN** whose telephone number is (571)272-3837. The examiner can normally be reached on M-Fr.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Zand can be reached on 571-272-3811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2134

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JL

/Kambiz Zand/
Supervisory Patent Examiner, Art Unit 2134
03/05/08